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Challenges to the EU's Policies on Migrants and Asylum Seekers

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(Image credit: Courtesy of Debating Europe)

In Europe, but also globally, we are seeing the largest displacement crisis since World War II. Worldwide 65 million people are forcibly displaced, including over 21 million refugees, 3 million asylum seekers and over 40 million internally displaced persons. 2015 was the beginning of the so called “refugee crisis” in Europe, with more than 1 million arrivals, the majority of which came from the top refugee-producing countries such as Syria and Afghanistan. The UN Refugee Agency (UNHCR) defines refugees as people facing persecution and conflict. “They are defined and protected in international law, and must not be expelled or returned to situations where their life and freedom are at risk.” In contrast, an asylum seeker **“is someone whose request for sanctuary has yet to be processed.”** Much of the debate about policy responses by the European Union (EU) towards migrants and asylum seekers focused on issues around security and cultural identity.

In recent years, EU policies are focused on preventing arrivals and cooperation with countries of origin and transit. This paper aims to explore this dimension of the EU policies, often referred to

as externalisation (Frelick, 2016). But research has also shown that such policies have had little effect on the total numbers of arrivals. Therefore, the EU should re-examine the external dimension of its policies and put in place other policies that can effectively manage the flows of people coming to its borders to seek a new life. This raises also unavoidable questions not only on the long term management of migration, but also on the issue of integration of migrants in European societies.

This working paper will examine the recent EU agreements with Turkey and North Africa and look at the limits of such agreements and consider what more needs to be done for the EU to better manage the challenges of migration.

Introduction

2015 was an exceptional year for the European Union (EU) with more than 1 million refugees and migrants arrivals, with the majority coming from the world's top 10 refugee-producing countries (primarily Afghanistan, Iraq and Syria). The trend continued in 2016, with around 1.3 million arrivals. The majority of arrivals filed asylum claims in Germany and Greece. Although 2015 and 2016 were record years in terms of numbers, the arrival of migrants or refugees fleeing conflict to Europe is not new. It intensified with the outbreak of conflicts in Libya and Syria, Syria accounted for the single largest source of refugees worldwide with 6 million being internally displaced, and almost 5 million people seeking refuge abroad. As for Libya, the UNHCR (2015) stressed in a report that the continued lack of rule of law and order, bombings and kidnappings, resulted in thousands of civilian casualties and led to the displacement of half a million people.

In response to the refugee crisis in 2015, the EU has come up with a reallocation plan, the creation of “hotspots” in Greece and Italy and increased search and rescue operations in the Mediterranean, mainly through EUNAVFOR MED operation SOPHIA. However, such attempts to craft a unified EU response to the refugee crisis have come up against opposition from some member states. This has become obvious with the rejection of the relocation scheme by some member states and reluctance by others, resulting in the slow implementation of the scheme. As of now less than 20,000 people have been relocated under the scheme, which was originally due to move 160,000 over a two-year period ending in September 2017. Poland, Hungary and the Czech Republic are refusing to participate in the scheme and have been threatened with sanctions by the EU. Further, the re-erection of border fences within Europe, paved the way to a widespread perception that the EU is disunited and had no good solution to the migrant crisis. Daily ship wrecks in the Mediterranean and the growing terrorist threat have created a sense of political emergency that has reinforced member states’ focus on border management and return policies. The security orientated approach to migration issues is not new but has gained momentum over the past few years. The main objective for the EU - as outlined by the European Commission (2016) - has become to “stem the migrant flows” by working with sending or transit countries, or cracking down on human trafficking crimes syndicates. The externalisation of migration is now the main plank of the EU's migration policy (Mc Namara & Pascouau, 2017).

EU-Turkey Agreement

Since Turkey was the main transit country of refugee arrivals to Greece in 2015 – an estimated 850,000 people transited via Turkey - the EU saw a strong urgency to close this route. Political pressure from the EU on Turkey to halt the Aegean Sea crossing grew and a series of talks were held beginning in October resulting in the March 2016 EU-Turkey Agreement (European Council, 2016). In this Agreement, Turkey committed to step up its efforts to curb irregular departures to the EU, to closely cooperate with EU member states, and ultimately, to return migrants who are not in need of protection to their country of origin via readmission agreements. The EU-Turkey Agreement is based on the assumption that Turkey is a safe country for refugees and asylum seekers.

The cornerstones of the Agreement:

- **Financial aid:** €6 billion over the period 2016-2018. The EU supports Turkey through the so called “Facility for Refugees in Turkey”. The financial aid is for education and employment-related projects in order to support the nearly 3 million registered Syrian refugees in Turkey.
- **Returns:** Every “irregular migrant” crossing from Turkey into Greece is sent back. Each arrival is individually assessed by the Greek authorities. Syrians are guaranteed the right to register for local protection in Turkey.
- **One-for-one-mechanism:** For each Syrian national returned to Turkey, one Syrian will be resettled in the EU. Priority is given to those who have not tried to illegally enter the EU. The number is capped at 72,000.
- **Visa liberalisation:** The EU promised access to the Schengen zone for Turkish nationals.
- **EU membership bid of Turkey:** The EU promised to re-open and accelerate accession negotiations.

Thanks to the EU-Turkey Agreement and its incentives, the Turkish authorities have agreed to improve their border management. Together with the closure of the Western Balkan route and the reintroduction of internal border checks in the Schengen area, the EU-Turkey Agreement largely halted migrant crossings from the Eastern Mediterranean to Greece and therefore, Europe. Its success helped to decrease the number of arrivals to the EU considerably. From 10,000 daily arrivals in October 2015, daily crossings have gone down to an average of around 43 in 2017, while the number of deaths in the Eastern Mediterranean decreased from 1,145 in 2015 to 80 in 2016. The Agreement was also supported by a German-led NATO mission, launched shortly before the EU-Turkey Agreement. The mission operates with the objective to return people who attempt to reach Greece from Turkey. Nevertheless, the mission has its limitations, since its mandate is to only support Frontex, and the Greek and Turkish border guards in monitoring irregular migration routes (EUObserver, 2017b).

With the one-for-one-mechanism around 900 irregular migrants have been returned from Greece to Turkey and around 4,000 Syrian refugees resettled from Turkey to EU member states as of March 2017. Some initial projections suggested that 150,000 or more people could be resettled under the programme, but one year after the implementation of the EU-Turkey Agreement, the

numbers resettled is far from the projected figures. The European Commission (2017a) however remains positive: “Despite challenging circumstances, the first year of the EU-Turkey Statement has confirmed a steady delivery of tangible results.” Brussels insists “progress has been achieved” amid criticisms from NGOs, some Members of the European Parliament (MEPs) and Ankara itself. There has also been a fair share of irritation from the Turkish side since there has been little progress on provisions in the Agreement calling for enhancing Turkey’s status as part of the EU customs union, nor have any steps been taken toward visa-free travel for Turkish citizens in the EU’s Schengen zone. Due to the Turkish coup and Erdoğan’s crackdown of the opposition forces in 2016, as well as concern about potential terrorists travelling to Europe via Turkey, the EU has delayed the prospect of granting visa-free travel for Turkish citizens.

Human rights groups and a broad majority of MEPs from the various political spectrums, including Manfred Weber, leader of the centre-right European People's Party, Guy Verhofstadt from the Alliance of Liberals and Democrats for Europe (ALDE) and Gabriele Zimmer from the left-wing European United Left - Nordic Green Left (GUE/NGL) said that the Agreement has not led to any improvement in conditions for most refugees, especially the tens of thousands of people trapped in camps in Greece, who are living in increasingly dire conditions (Politico, 2017a). A coalition of MEPs has also called for ending the Agreement with Turkey. “The responsibility that we think we have as the European Union, a humanitarian responsibility, is being shifted to a third country,” said Ska Keller, MEP and co-leader of the Greens group. “Turkey is supposed to do our refugee policy” (quoted in: *ibid.*).

Aid agencies such as Doctors Without Borders (*Médecins Sans Frontière*, 2017) voiced concerns over human rights issues chiding the EU officials for failing to mention “the devastating human consequences of this strategy on the lives and health of the thousands of refugees, asylum seekers and migrants trapped on the Greek islands and in the Balkans.” Overall, there has been criticism amongst NGOs over the EU's “refusal to take in more refugees.” Amnesty International (2017) called the Agreement a “historic blow to human rights”. The organisation also highlighted issues around arbitrary detention, with the automatic detention of “irregular arrivals”, including asylum seekers, which is a clear violation of international and EU law. Further, a leaked report by UNHCR (2016) revealed that its staff monitoring human rights conditions in Turkish refugee camps, have struggled to access those centres, with almost no data about how many Syrians have received legal protection.

North Africa

Due to the closure of the Western Balkan route, the EU-Turkey Agreement and the unstable political situation in Libya, the Central Mediterranean has returned to be one of the main gates of entry for irregular migrants arriving in the EU by sea. The crossing is longer, and therefore also significantly more dangerous. Critics have already warned that the EU-Turkey Agreement could force migrants determined to reach Europe to start using other and potentially more dangerous routes. While irregular migration across the Central Mediterranean is not a new phenomenon, it has increased considerably in recent years. For instance, by mid-April 2017 around 36,000 migrants had arrived in Italy since the beginning of the year, or an increase of 43% over the same period in 2016. The Central Mediterranean saw a record number of crossings in 2016, with more

than 180,000 migrants intercepted. Besides, 2016 was a record year for the number of lives lost at sea with over 4,500 people who died in their attempts (International Organisation for Migration, 2017). All those reasons have led to numerous changes in the EU's response in the various areas, such as ad-hoc rescues in the high seas, institutionalised surveillance operations, involving a growing number of European actors and going much closer to the African shores. The Malta Declaration – which aims to stop the flow of migrants across the Central Mediterranean – was unanimously approved by the Heads of State during a Summit in February 2017.

One of the approaches by the EU to address irregular migration and its root causes was the implementation of the Migration Partnership Framework (MPF) in June 2016. It focuses on the Central Mediterranean route and has five priority countries, namely Mali, Nigeria, Niger, Senegal and Ethiopia. Its objectives are to “save lives in the Mediterranean Sea; increase the rate of returns to countries of origin and transit; and enable migrants and refugees to stay close to home and to avoid taking dangerous journeys”. The EU claims that its Migration Partnership Framework (MPF) aims “to show its citizens that migration [...] can be managed in a sustainable way.” (European Commission, 2016)

Recently the European Commission (2017d) published a report that highlights the progress achieved within the first year of the MPF. EU migration liaison officers are now present in 12 partner countries (Ethiopia, Jordan, Lebanon, Mali, Niger, Nigeria, Pakistan, Senegal, Serbia, Tunisia and Turkey) and the first European Border and Coast Guard Agency liaison office will open in July 2017 in Niger. The MPF is further supported by the EU Emergency Trust Fund for Africa (EUTF), established in November 2015 with the explicit aim of reducing migration to Europe (European Commission, 2015). The EUTF is funded with over €2.8 billion. Negotiations on readmission agreements have begun with Nigeria, Tunisia and Jordan, in addition to those ongoing with Morocco. The report stresses that cooperation with Libya is a top priority and will be further enhanced through a permanent EU Border Assistance Mission. Brussels offered Tripoli €200 million to better control its borders, this includes €3.2m to expand the EU's training programme for the Libyan coastguard.

The cornerstones of the MPF:

- **Financial aid:** €8 billion over the period 2016-2020.
- **Returns:** Readmission agreements with countries of transit and origin.
- **Practical aid:** Training of border and coast guards.

The EU-Turkey Agreement was perceived as a silver bullet and that a similar template could be transferred to the Central Mediterranean route. As Donald Tusk stated after a meeting with the Prime Minister of Libya in the beginning of 2017, “Europe has proved it is able to close down irregular routes of migration, as we did on the Eastern Mediterranean route. We have discussed the example of our cooperation with Turkey and other countries in this part of the region. Now it is time to close down the route from Libya to Italy” (quoted in: Mc Namara & Pascouau, 2017). But according to Mc Namara & Pascouau (2017) it is risky to replicate the EU-Turkey Agreement with Libya, because conditions in Libya and Turkey are nothing alike. The Government of National Accord in Libya does not have full control over its territory or its

borders, making it a failed state. Further, Libya cannot be offered the same incentives such as accession talks or visa liberalisation. Various reports about human rights abuses, arbitrary detention, dire conditions in detention centres and slavery, raise concerns over the EU's cooperation and the EU's human rights obligations.

In addition, there are other difficulties that the EU may find by solely focusing on migration management issues in its relations with Libya and other African countries. In the first instance, supporting the EU with better managing migration flows may not be in the interest or priorities of these African countries. Since most African states do not want to keep their young and unemployed people in the country, more options like legal migration, resettlement solutions, external processing and actions to limit push factors have to be included in the discussions. Barslund & Ludolph (2017) highlight in their commentary the difficulties the EU is facing with respect to readmission agreements with North African countries due to a lack of incentives. They stress the importance of legal migration. This could be achieved through so called “work-for-readmission” agreements, which the EU would support through “training facilities in key countries [...], where a percentage of those trained are offered (temporary) work permits to the EU” (ibid.). In order to reduce the number of people crossing the Mediterranean, it is essential for the EU to create incentives for readmission agreements to work.

At the EU-Africa summit in late 2015, West African representatives warned Brussels: migration is your problem, not ours (Parkes, 2017). Since then, they have reportedly pursued a range of tactics to keep the path to Europe open. There also has been local reluctance to cooperate due to lack of other opportunities. For instance, cross-border economies are of paramount importance in Niger and the EU-funded crackdown of the same has led to alienation of the local stakeholders (Lucht, 2017).

Furthermore, a number of human rights organisations have voiced their concerns, criticising the predominant focus on border control, return and readmission, and “the negative impact of these policies on human rights.” For instance, in Niger the increased monitoring of certain routes has led to so called “shadow routes”, meaning that the actual numbers of people on the move remain in the dark. It has been argued that the long-term stability of the country has been jeopardised due to the EU's anti-migration agenda. Another concern is that while saving lives is the apparent objective of the MPF, in reality it focuses mainly on facilitating returns and reinforcing border controls. The Red Cross (2017) warns that an emphasis on returns poses a risk of violating human rights, including the principle of non-refoulement.

There are also concerns that blocking one sea route, e.g. between Libya and Italy, will simply redirect people to other routes. France, especially, has expressed fears about an increasingly unstable Tunisia.

Nevertheless, while criticising the EU for its “hard stance” on migration from North Africa, it has to be borne in mind that about 61% of those who arrive in Italy from Libya do not qualify for any form of protection. People from Nigeria, Eritrea, Ivory Coast and Guinea are among the top countries of origin.

Policy Dilemmas and Challenges

Looking at the two examples above, it has become obvious that the EU's policies have limitations and will never be able to fully prevent migration. The EU-Turkey Agreement has shown that migrants and asylum seekers change their routes in order to enter Europe. With continuing conflicts all over the world, particularly in Syria, Iraq and Libya people will continue to seek refuge in perceived peaceful places in Europe. The EU might be able to reduce the number of arrivals through external agreements with source and transit countries, but it will never be able to stop migration. People will continue to come in search of better lives. And as long as the countries of origin are unable to offer their residents suitable prospects and opportunities, “men and women will move, as they always have in human history,” Fabrice Leggeri, the head of Frontex, said (quoted in: Euractiv, 2017).

It is a fact that the EU will have to deal with refugees and migrants coming to its member states, and therefore has to address its long term implications such as issues as human rights and also failed asylum seekers. In this respect the EU faces inevitably multiple policy dilemmas, the core ones being return policies and the integration of those allowed to settle in Europe. The EU also has to deal with the heightened fear of perceived increased terrorism threat associated with the migration flows.

Return Policies

Every year, around 500,000 people are ordered to leave the EU because they have entered illegally or they have overstayed. However, only 40% of them were sent back to their country of origin or to the country of transit. According to the EU “ensuring the return of irregular migrants is in fact absolutely essential in order to enhance the credibility of policies in the field of international protection and legal migration” (European Commission, 2017e). Operational cooperation between EU member states and third countries is essential. However, the latter is responsible for the low rate of returns due to their reluctance to identify and readmit their nationals. In order to facilitate the return of migrants and rejected asylum seekers the EU has pursued readmission agreements with third countries, such as Niger and Ethiopia.

In addition, the EU has established the “safe third country” concept which was codified in the Asylum Procedures Directive (APD), one of the key elements of the EU’s Common European Asylum System, in 2005. This means that a transit or first arrival country is labelled a “safe third country” or “first country of asylum” and therefore has to provide protection. However, there continue to be concerns over its compatibility with international refugee law. According to UNHCR, there are no minimum principles and guarantees in place. The implication is that access to territory and to an asylum procedure may be denied altogether to asylum seekers who may have required protection (Frelick, 2016). Despite the necessity of returns, the system of safe third countries and readmission agreements raises questions regarding its effectiveness, compliance with human rights and cost. A report by EUObserver (2017a) found that an average of around €5,800 are spent for every individual deported back to their country of origin under the joint scheme coordinated by Frontex. However, the real cost might be even higher due to expenses for national detentions, arranging documents, etc. In 2015 Frontex spent some €11.4 million on joint returns, and these increased to over €66.5 in 2016. Franck Duvell (quoted in: *ibid.*), a senior

researcher at the Centre on Migration, Policy and Society of the University of Oxford, highlighted: “In comparison, in Germany a refugee costs about €12,000 a year, in Southern countries it would be even less. Hence, a deportation costs probably roughly as much as catering for a person for one year.”

From the beginning of 2015 until October 2016, over 4,700 have left under the return scheme. Nevertheless, forced returns are increasingly being seen as one of the top options to ease migration pressures. Also, some returns may have breached human rights provisions, with the case of Sudanese nationals making the headlines. A group of Sudanese nationals was deported in 2016, some who refused to leave were granted asylum, raising questions over the legal framework of the return. Since all were from Darfur, a war zone, supposedly they should all be eligible for asylum. That’s why some of the repatriated individuals are now [appealing to the European Court of Human Rights](#). Similar concerns can be found regarding repatriations to Afghanistan (Politico, 2017c). According to the UN Assistance Mission in Afghanistan (2017), 2016 was the deadliest year for civilian casualties, and yet EU member states, including Germany, considered the country safe enough to return Afghan asylum seekers. The bomb attack near the German embassy earlier this year, seems to have led to a rethinking of Afghanistan as safe third country. Many of the returnees were extremely vulnerable, and their returns likely violated international law.

Besides repatriations, there are also so-called assisted voluntary returns where payments are offered to individuals. The amounts, however, vary considerably across the EU. Migrants in Germany, for example, can receive up to €5,000, while those in the Czech Republic receive nothing. That has created incentives, with the European Commission (2017b) warning about migrants “shopping” around for the best deal. According to the International Organisation for Migration, there were 81,575 assisted voluntary returns from Europe in 2016, although the figures are not comprehensive (Politico, 2017b).

Ultimately, all returns are supposed to be based on decisions over an asylum seeker's application, whether it has been granted or rejected. However, again this process varies considerably across member states, and highlights another dilemma between thorough processing (which takes time), and quick processing. A change of the asylum procedure in Italy has shown that the new system undercuts the evaluation process by preventing applicants from effectively presenting their case (Toaldo, 2017).

Integration Policies

Integration policies are crucial to avoid tensions between newcomers and their host community. Generally speaking, research has shown, that the most effective way to respond to the anxiety of the citizens about migration is for European leaders to focus on the integration of migrants in the European society (Mercator Dialogue on Asylum and Migration, 2017). There is of course a challenge on how to quantify or measure the integration of migrants and refugees.

In most EU member states, it will take months, sometimes even years, before asylum seekers start receiving language training or any other integration support. According to an OECD report

(2016), the consequence is that “when they are eventually granted humanitarian status, their ability to integrate may have suffered long-term damage.” The report suggests to shorten the time to process asylum applications. Further recommendations of the report are to provide early assistance to refugees, particularly language and job-related training, civic integration courses and skills assessments in reception centres. But Yves Pascouau, Director of Migration and Mobility Policies at the European Policy Center, warned that “in a Brussels office, people do forget that asylum seekers have lived very traumatic experiences and may suffer psychological distress, so it is very difficult for them to learn and adapt in such circumstances” (quoted in: Euractiv, 2016).

Studies (e.g. World Economic Forum, 2016) have shown that integration could be further enhanced through legal channels. A managed flow of people makes integration easier. “Illegal” migration, in contrast, makes integration challenging, since these irregular migrants tend to find jobs in the informal sector and generally live on the margins of society (Toaldo, 2017). Another study conducted on the integration of refugees in Bavaria, Germany by the Hanns Seidel Foundation (2017) has shown the large discrepancy regarding education and therefore level of integration between the different refugee groups. According to the study, the initial assumption that mainly highly educated people have come to Europe must be put in perspective. The study showed that refugees from Afghanistan and Eritrea have a low level of education. Some never went to school, whereas refugees from Iraq and Syria, are highly educated and therefore have better chances to get a job or further their higher education.

The study by the World Economic Forum (2016) suggests that the lack of integration policies can lead to the “radicalisation” of migrants and refugees.

Terrorism Threat

Irregular migration and recent terrorist attacks in Europe feed popular perceptions of migration being connected to crime and terrorism. Some people believe that terrorists can come along the migration flow, unrecognised among the “genuine” asylum seekers. These anxieties contribute to the fortunes of anti-immigration parties.

After every attack, calls for tighter border controls, stricter asylum policies and concerns over Schengen emerge. As part of the EU's anti-terrorism policy and the increased threat of returning foreign fighters, the EU introduced tougher border checks in April 2017. The move is part of the European Commission's (2017c) anti-terrorism policy, since some returning foreign fighters - who were EU nationals – have been involved in terrorist attacks in Europe. “We still have a stock of 2,500 Europeans who are on the ground [Syria and Iraq] and we don't know how many, at what rhythm, and on which routes they will return here,” Gilles de Kerchove, the EU's Counter Terrorism Coordinator, said (quoted in: Euractiv, 2015). However, he also stressed that linking terrorism and asylum seekers would be a mistake, saying that the problem lies within radicalised people, born in Europe. Nevertheless, there is a **link between migration and terrorism. According to de Kerchove the issue is that “we know that some terrorist organisations try to engage in human trafficking at Libyan shores, because it is a very lucrative job. We have to address this problem, but it does not mean they send terrorists together with refugees”** (quoted in: *ibid.*).

Conclusion

Recent developments in Italy, beginning of July 2017, have shown that the problems around migration are here to stay: The arrival of 12,000 people in Italy over a span of just a few days, has led to a new Action Plan, after Italy called on other EU member states to open their ports to rescue ships (EUObserver, 2017c). The Action Plan will allocate €35 million in aid for Italy and further enhance cooperation with Libya and other countries to stem the flow of migrants. Frans Timmermans, the European Commission's Vice-President acknowledged that there is no silver bullet solution to the migration crisis, and said that “this issue will not go away tomorrow, or next year, not in a decade – it is here to stay for generations” (quoted in: *ibid.*).

Without doubt the current humanitarian and migration crisis is testing the limits of the EU's commitment to human rights norms and its capacity to act as a political union capable of offering credible and common solutions. Most EU member states have provided protection to people with legitimate claims for international protection. However, a worrisome parallel development has been the measures taken to prevent people, including asylum seekers, from reaching European borders in the first place so that the states can shun their international obligations. Current policies focus on reducing the number of migrants, raising concerns over the balance of short-term and long-term priorities – the urgent versus the long-run. This further raises questions over the EU's values and obligations. Experts have repeatedly highlighted that the EU's system could be partially relieved if legal migration channels were opened.

It still has to be seen, whether the EU will manage the balancing act of providing international protection, while at the same time securing its external borders. It will be seen as a yardstick to judge its human rights commitment.

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About the EU Centre

Established in 2008, the EU Centre in Singapore was a joint project funded by the European Union (EU), the Nanyang Technological University (NTU) and the National University of Singapore (NUS). From 2017, the Singapore Management University (SMU) has also become a partner in contributing to the operations of the EU Centre. The EU is now a joint partnership of these three local universities.

The primary mission of the EU Centre is to promote knowledge and understanding of the EU, its policies and development of its relations with Singapore and Southeast Asia through research, publications and different outreach programmes.

The EU Centre is the Coordinator of a 3-year Jean Monnet Network grant (Sep 2016 – 2019). The Network comprising the EU Centre, University of Indonesia, University of Malaya and Maastricht University, will be jointly organising a series of programmes and activities tied to two research themes on Multiculturalism and Multilateralism.

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